

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

NICK PEARSON, FRANCISCO PADILLA,  
CECILIA LINARES, AUGUSTINA BLANCO,  
ABEL GONZALEZ, and RICHARD  
JENNINGS, on Behalf of Themselves and All  
Others Similarly Situated,

Plaintiffs,

v.

NBTY, INC., a Delaware corporation; and  
REXALL SUNDOWN, INC., a Florida  
corporation; TARGET CORPORATION, a  
Minnesota Corporation,

Defendants.

Case No.: 11 CV 07972

CLASS ACTION

**Judge James B. Zagel**

**Motion for Leave To File Plaintiffs’  
Response to Objections Thereto Under Seal**

Plaintiffs Nick Pearson, Francisco Padilla, Cecilia Linares, Augustina Blanco, Abel Gonzalez, and Richard Jennings (“Plaintiffs”), through their counsel, hereby move for leave to file under seal Plaintiffs’ Response to Objections. In support hereof, Plaintiffs state as follows:

1. Portions of Plaintiffs’ Response to Objections have been redacted to preserve the confidentiality of sales data and marketing information that belongs to Defendants and/or their business associates. Settling Defendants have represented to movants, that this information is, in some cases, subject to a confidentiality agreement with a third party and, in all cases, information that, if disclosed publicly, would detrimentally affect Defendants’ competitive position in the market.

2. To the extent that these documents were previously produced in litigation, they were produced pursuant to protective orders entered in the relevant cases. *See Cardenas v.*

*NBTY, Inc.*, No. 2:11-cv-01615-TLN-CKD, Stipulation and Protective Order [D.E. 58] (E.D. Cal. Aug. 17, 2012); *Jennings v. Rexall Sundown, Inc.*, No. 1:11-cv-11488-WGY, Joint Confidentiality Stipulation and Protective Order [D.E. 37] (D. Mass. June 1, 2012).

3. Plaintiffs have arranged for courtesy copies of both the public-record (redacted) and the sealed (unredacted) versions of Plaintiffs' Response to Objections to be provided to the Court immediately.

4. The Parties will electronically file public-record (redacted) versions of Plaintiffs' Response to Objections, and will serve the same on the Objectors or their Counsel listed in the service list attached hereto.

5. The Parties will serve unredacted versions of Plaintiffs Response to Objections and Exhibits B, S, and Z thereto on the Objectors or their counsel listed in the service list attached hereto, provided that the Objectors or their counsel comply with the Protective Order entered in a related case, *Cardenas v. NBTY, Inc.*, No. 2:11-cv-01615-TLN-CKD (E.D. Cal.), which requires persons to execute a Confidentiality Undertaking before reviewing any confidential materials subject to that Order. A copy of the *Cardenas* Confidentiality Stipulation and Protective Order and the Undertaking will be enclosed with the public-record (redacted) version of the Plaintiffs' Response to Objections served upon the Objectors or their counsel.

6. Wherefore, pursuant to Local Rule 26.2, the Parties respectfully request an order sealing the unredacted version of Plaintiffs' Response to Objections. In the event this Motion is granted, the Parties will electronically file sealed versions of Plaintiffs' Response to Objections.

Dated: September 4, 2013

By: /s/Stewart M. Weltman

Stewart M. Weltman  
STEWART M. WELTMAN, LLC

53 W. Jackson, Suite 364  
Chicago, Illinois 60604  
Telephone: 312-588-5033  
(Of Counsel: Levin Fishbein Sedran & Berman)

Of Counsel:

Elaine A. Ryan  
Patricia N. Syverson  
Lindsey M. Gomez-Gray  
BONNETT, FAIRBOURN, FRIEDMAN &  
BALINT, P.C.  
2325 E. Camelback Rd., Suite 300  
Phoenix, Arizona 85016  
Telephone: 602-274-1100  
*Attorneys for Plaintiffs Nick Pearson, Francisco  
Padilla, Cecilia Linares, Augustina Blanco, and  
Abel Gonzalez*

Peter N. Freiberg (admitted *pro hac vice*)  
Jeffrey I. Carton (admitted *pro hac vice*)  
DENLEA & CARTON LLP  
One North Broadway, Suite 509  
White Plains, New York 10601  
Telephone: (914) 920-7400  
*Attorneys for Plaintiff Richard Jennings*

# **CERTIFICATE OF SERVICE**

I hereby certify that on September 4, 2013, a true and correct copy of the following document was electronically filed and served on all counsel of record in this action who are deemed to have consented to electronic service via the Court's CM/ECF system: **Plaintiffs' Motion for Leave to File Plaintiffs' Response to Objections.**

I also certify that the foregoing document is being served by U.S. Mail this day on all counsel of record or *pro se* parties identified below who are not authorized to receive electronically Notices of Electronic Filing.

C. Jane Radlinski 309 E. Church Street Jacksonville, FL 32202-2725 (904) 633-2699 <i>Pro se</i> Objector	John Michael Buckley 370 Canyon Spring Dr. Rio Vista, CA 94571 (707) 374-3853 <i>Pro se</i> Objector
Peggy Thomas 2109 N.W. 12th Avenue Ft. Lauderdale, FL 33311 (954) 761-1589 <i>Pro se</i> Objector	Simone Thomas 2109 N.W. 12th Avenue Ft. Lauderdale, FL 33311 (305) 903-6935 <i>Pro se</i> Objector
Rhonda L. Paulson 13383 E. Marie Creek Road Couer d'Alene, ID 83814 <i>Pro se</i> Objector	Donald Charles Koneval 8314 Manorford Drive Parma, OH 44129-5309 (440) 842-6232 <i>Pro se</i> Objector
Anthony Leardi 1813 Renwick Street Bethlehem, PA 18017 (610) 865-7821 <i>Pro se</i> Objector	Joseph Darrell Palmer Law Office of Darrell Palmer PC 603 N. Highway 101, Suite A Solana Beach, CA 92075 (858) 792-5600 Attorney for Objectors Kathleen McNeal and Alison Paul

<p>Melissa A. Holyoak  Center for Class Action Fairness  1718 M Street NW, No. 236  Washington, DC 20036  (573) 823-5377  Attorney for Objector Ted Frank</p>	<p>Jonathan E. Fortman #40319  250 Saint Catherine Street  Florissant, Missouri 63031  (314) 522-2312  Attorney for Objector Pamela Easton</p>
<p>Steve A. Miller  Steve A. Miller, PC  1625 Larimer Street, No. 2905  Denver, CO 80202  (303) 892-9933  Attorney for Objector Pamela Easton</p>	<p>Maureen Connors  6625 Pearl Road  Parma Heights, OH 44130  (216) 640-9860  Attorney for Objector Pamela Easton</p>
<p>John C. Kress (53396MO)  The Kress Law Firm, LLC  4247 S. Grand Blvd.  St. Louis, MO 63111  (314) 631-3883  Attorney for Objector Pamela Easton</p>	